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Fiftieth session

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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

Regional arrangements for the promotion and protection of human rights in the Asian and Pacific Region

Report of the Secretary-General submitted in accordance with paragraph 13 of Commission on Human Rights resolution 1993/57

GE.93-85721 (E)

Introduction

1. In its resolution 1993/57 of 9 March 1993 entitled "Regional arrangements for the promotion and protection of human rights in the Asian and Pacific Region", the Commission on Human Rights requested the Secretary-General to maintain a continuing flow of human rights materials to the library of the Economic and Social Commission for Asia and the Pacific and encouraged all States members and associate members of the Economic and Social Commission for Asia and the Pacific and other parties to make full use of the depositary Centre of that organization. The Commission encouraged once again United Nations development agencies in the Asian and Pacific region to coordinate with the Economic and Social Commission in their efforts to promote the human rights dimension in their activities. It welcomed the regional workshops on various human rights issues, including regional and national institutions and arrangements for the promotion and protection of human rights, which had been held in the Asian and Pacific region. It also welcomed the interest of some Governments in the region to host a regional meeting in 1993/1994 to follow up discussion on the region's consultative mechanism and, in that regard, requested the Secretary-General to facilitate the realization of that activity under the regular budget for advisory services and technical cooperation and encouraged all States in the region to consider further the establishment of regional arrangements for the promotion and protection of human rights,taking into account the various approaches and mechanisms identified in the Chairman's concluding remarks at the Workshop for the Asia-Pacific region on Human Rights issues held at Jakarta.

2. The Commission appealed to all Governments in the Asian and Pacific region to consider making use of the possibility offered by the United Nations to organize, under the programme of advisory services and technical cooperation for the promotion and protection of human rights, training courses at the national level for appropriate government personnel on the application of international human rights standards and the experience of relevant international organs. It also encouraged all States in the region to consider ratifying or acceding to the various human rights instruments. It requested the Secretary-General to consult the States in the Asian and Pacific region on the widest possible basis in the implementation of the resolution and to submit to the Commission at its fiftieth session a report incorporating information on the progress achieved in the implementation of the present resolution.

3. The present report is submitted in accordance with the request contained in resolution 1993/57 of the principal human rights instruments. Information on the status of ratification by States of the region is annexed to the report.

I. COOPERATION WITH THE ECONOMIC AND SOCIAL COMMISSION FOR ASIA AND THE PACIFIC

4. In a letter dated 29 April 1993 addressed to the Executive Secretary of the Economic and Social Commission for Asia and the Pacific (ESCAP), the Centre for Human Rights, referring to Commission on Human Rights resolution 1993/57, drew his attention to paragraph 3 in which the Commission encouraged all States members and associate members of ESCAP and other parties to make full use of the depositary centre of that organization. ESCAP was also asked for its assessment of the usefulness and utilization of the human rights documents which had been forwarded to it by the Centre for Human Rights and to indicate any further documentation that it might be appropriate to send. As of 8 November 1993, no reply has been received from ESCAP.

5. In a note verbale dated 15 June 1993, the Centre for Human Rights informed the Government of Niue, an associate member of ESCAP, about resolution 1993/57. In a letter dated 8 September 1993, the Government of Niue declared that it would be pleased to make use of the depositary centre as and when it needed to do so.

II. INFORMATION RECEIVED FROM UNITED NATIONS DEVELOPMENT AGENCIES IN THE ASIAN AND PACIFIC REGION

6. In a letter dated 14 May 1993, the Centre for Human Rights informed the United Nations development agencies in the Asian and Pacific region about the relevant paragraphs of resolution 1993/57 and requested them to forward any relevant information concerning their activities. As of 8 November 1993, no reply had been received.

III. CONSULTATION WITH THE COUNTRIES OF THE ASIAN AND PACIFIC REGION

A. Views of States of the Asian and Pacific region and the United Nations on the implementation of Commission on Human Rights resolution 1993/57

7. In a note verbale dated 14 May 1993, the Centre for Human Rights drew the attention of Governments to the relevant paragraphs of resolution 1993/57 and requested them to forward their views on the implementation of the resolution. As of 8 November 1993, replies had been received from Cambodia and China.

Cambodia

8. In his reply dated 1 June 1993, His Majesty Preah Norodom Sihanouk of Cambodia observed that "As president of the Supreme National Council of Cambodia, he is committed to absolute respect for human rights while working closely with the United Nations and ad hoc Cambodian associations created for this purpose." ... "He holds no executive nor administrative power, including over the Government of the State of Cambodia, and that Cambodia is currently engaged in an election process which should result in the formation of a new government in August 1993."

China

9. In its reply dated 23 July 1993, the Government of the People's Republic of China noted that:

> "The Chinese Government has always supported and actively participated in various activities of protecting and promoting human rights and basic freedoms based on the purposes and principles of the United Nations Charter in the international community, and has advanced international cooperation in the human rights field among nations and regions on the basis of equality and mutual respect. Under the guidance of this principled position, China has taken part in the considerations of regional human rights arrangements by the United Nations General Assembly and the Commission on Human Rights, and has been one of the co-sponsors of a series of decisions including Commission on Human Rights resolution 1993/57. The representatives of the Chinese Government and Chinese human rights experts participated in, and made positive contributions to the Asian and Pacific Regional Symposium on Human Rights held in Jakarta in January 1993".

10. The Chinese Government observed that:

> "(a) There is no fixed model for each regional human rights machinery. In proceeding [with] international human rights cooperation and making regional arrangements for the respect and protection of human rights, the reality of the region should be considered and practices of other regions should not be followed blindly. The Asian and Pacific region has huge populations and vast territories. The historical and cultural background, the social system, values and levels of economic development in each of the countries have their own characteristics. Only by taking proper measures based on the regional situations and demands of all peoples can it be truly conducive to the enhancement of the level of human rights enjoyment in the region. (b) The establishment of the regional human rights machinery should fully respect the wills of all the countries in the region and be decided by all the Governments through consultation. In this process, the practice of imposing outside pressures or forcing one's own will on others can but only produce negative impacts. (c) The establishment of the regional human rights machinery should have a long-term and full preparation and be accomplished progressively without any unnecessary haste. In the Asian and Pacific region, all the countries may continue to strengthen the exchange and cooperation among them on the basis of mutual respect and full equality, and create conditions for regional human rights protection through contacts with countries both outside the region and related United Nations organs as well".

Association of South-East Asian Nations (ASEAN) Ministerial Meeting

11. During the ASEAN Ministerial Meeting held at Singapore from 23 to 24 July 1993, the Foreign Ministers of the ASEAN countries adopted a joint communiqué at the close of the meeting. They had to decide whether they wanted a separate ASEAN Declaration after the Vienna World Conference on Human Rights. The joint communiqué from the Ministerial Meeting contains

three paragraphs on the issue of human rights and, in particular, on the international consensus achieved at Vienna. The Foreign Ministers also agreed that ASEAN should consider the establishment of an appropriate regional mechanism on human rights. The decision as to how to proceed must be decided at the Senior Officials Meeting, which would then report to the next ASEAN Ministerial Meeting which is scheduled to be held at Bangkok in July 1994. The joint communiqué is a response to Commission on Human Rights resolution 1993/57, which in paragraph 8 encouraged all States in the region to consider further the establishment of regional arrangements for the promotion and protection of human rights, taking into account the various approaches and mechanisms identified at the Jakarta workshop.

B. Contacts between countries of the Asian and Pacific region and the United Nations

12. The United Nations, through its Centre for Human Rights, has pursued and strengthened its contacts and cooperation in the field of human rights with the countries of the Asian and Pacific region. This cooperation has developed through activities carried out under the United Nations programme of advisory services and technical assistance.

Cambodia

13. During the period April 1992-September 1993, the Centre for Human Rights implemented an information programme in Cambodia, in cooperation with the United Nations Transitional Authority in Cambodia (UNTAC). It financed the publication of educational materials and the production of audio-visual material, provided background documents and literature and arranged for some of the main international human rights instruments to be translated into Khmer and widely distributed among the Cambodian population. The Centre contributed to the financing of the programme on human rights training, education and information campaigns and various forms of support to local non-governmental organizations elaborated by UNTAC's Human Rights Component.

14. A mission from the Centre for Human Rights visited Cambodia from 11 to 17 October 1992, in order to explore ways of strengthening the cooperation between the Centre and UNTAC. The delegation consisted of an independent expert and a staff member of the Centre.

15. A representative of the Centre for Human Rights also participated in the International Symposium on Human Rights in Cambodia held at Phnom Penh in December 1992.

16. In its resolution 1993/6 entitled "Situation of human rights in Cambodia", adopted on 19 February 1993, the Commission on Human Rights requested the Secretary-General to ensure a continued United Nations human rights presence in Cambodia after the expiry of the mandate of the United Nations Transitional Authority in Cambodia, inter alia, through the operational presence of the Centre for Human Rights. In the same resolution it also requested the Secretary-General to appoint a special representative

for Cambodia to (a) maintain contact with the Government and people of Cambodia; (b) guide and coordinate the United Nations human rights presence in Cambodia; (c) assist the Government in the promotion and protection of human rights.

17. Pursuant to this resolution, the Centre for Human Rights established its office in Phnom Penh on 1 October 1993, succeeding the Human Rights Component of UNTAC. The Secretary-General has thus assured a continued United Nations human rights presence after the expiration of UNTAC's mandate on 5 October 1993, the Assistant Secretary-General for Human Rights wrote to the First Prime Minister of the Royal Government of Cambodia, HRH Prince Norodom Ranariddh, and the Second Prime Minister, His Excellency Hun Sen, to communicate to them the contents of resolution 1993/6 and to seek the consent of the Government and its cooperation to facilitate the task of the Special Representative and the Centre for Human Rights.

18. On 23 October 1993, a delegation from the Centre for Human Rights met with HRH Prince Norodom Ranariddh to convey to him the letter of the Assistant Secretary-General. The First Prime Minister expressed his total endorsement of the text of the Commission's resolution and, after welcoming the establishment of the office of the Centre for Human Rights in Cambodia, assured the delegation of the support of the Royal Government of Cambodia for the activities of the Centre and of the Special Representative of the Secretary-General in the country.

19. According to Commission resolution 1993/6, the mandate of the Centre for Human Rights in Cambodia includes the following elements: (a) to manage the implementation of educational and technical assistance and advisory services programmes and to ensure their continuation; (b) to assist the Government of Cambodia established after the election, at its request, in meeting its obligations under the human rights instruments recently acceded to, including the preparation of reports to the relevant monitoring committees; (c) to provide support to bona fide human rights groups in Cambodia; (d) to contribute to the creation and/or strengthening of national institutions for the promotion and protection of human rights; (e) to continue to assist with the drafting and implementation of legislation to promote and protect human rights; (f) to continue to assist with the training of persons responsible for the administration of justice.

20. Since its establishment on 1 October 1993, the following activities have been undertaken by the Cambodian human rights field office:

(a) A workshop on the making of a Supreme Court for 55 members of Cambodian non-governmental organizations and representatives of the Ministry of Justice was held on 4 November 1993. Two staff members of the Centre and Mr. O. Nanayakkara, former UNTAC Special Prosecutor, participated as lecturer/resource persons. The purpose of the workshop was to draw attention to the need for creating/strengthening the Supreme Court as a vital national institution, by legislative means if appropriate. To that end, the role and function of the Supreme Court in the legal system were focused on. The workshop started with a practical demonstration of the hearing by the

Supreme Court of an appeal against an order of a lower court. A discussion on the powers and functioning of an effective Supreme Court and the general problems faced by the lower judiciary followed the demonstration;

(b) A workshop for members of the newly founded defenders association was held on 10 and 11 November. The workshop was organized at the request of the association, which has been faced with many problems relating to visits to prisons and in representing people who were under arrest, in detention or facing trial. One of its major concerns is the lack of respect for the judicial process on the part of the police. During the workshop, basic problems of defenders were identified and laws and regulations suggested with a view to improving the effective administration of justice and ensuring respect for human rights. The workshop also provided technical advice on aspects of the trial process. Two staff members involved in legal assistance participated as lecturers/resource persons;

(c) The translation into Khmer of the Manual on Human Rights Reporting and the transmittal of 20 new human rights instruments, included in the new edition of Human Rights: A Compilation of International Instruments, to the Cambodian Institute of Human Rights.

It is also worth noting that a human rights committee has been established within the National Assembly comprising seven members of various political parties. The Centre is providing advice and technical assistance to this new human rights institution.

Republic of Korea

21. Pursuant to resolution 1993/57, the Centre for Human Rights undertook consultations with some Governments in the Asian and Pacific region to identify a country which would wish to host a regional workshop in 1993/1994 to follow up the discussion of the region's consultative mechanism. The Government of the Republic of Korea expressed its willingness to host the workshop which is scheduled to take place in 1994 and is considering the matter.

C. Activities by non-governmental organizations for the protection of human rights in the Asian and Pacific region

22. The Asian and Pacific non-governmental organizations for the protection of human rights have organized a number of meetings and conferences on subjects related to human rights. The Centre for Human Rights was either invited to these conferences or participated in their organization.

Asian-Pacific human rights conference

23. The Asian-Pacific Human Rights Conference on Peoples and Cultures Under Attack from "Development" - A Human Rights Response was organized at Osaka, Japan, from 22 to 25 June 1992 by the International Movement against All Forms of Discrimination and Racism and the Buraku Liberation Research Institute, together with other groups, and with the participation of the Centre for Human Rights.

24. The organizers had taken the initiative to establish an Asian-Pacific human rights information centre at Osaka. The sponsors of the proposed centre had decided to consult experts and non-governmental organizations in the region; the Conference was organized as part of this consultation process and to contribute to the non-governmental organizations' preparations for the International Year of the World's Indigenous People and the World Conference on Human Rights.

25. The Conference was to enable the sponsors to identify the broad trends and patterns in the region with regard to the human rights situation and plan future directions for the proposed centre. It was intended to formulate a set of recommendations reflecting the NGO perspective on the human rights situation in the region for submission to the World Conference on Human Rights.

26. Based on these objectives, the theme and the subthemes of the Conference were chosen in order to analyse development and its impact on human rights by utilizing common perspectives in the form of international human rights standards. Therefore, under the broad theme of "Peoples and Cultures Under Attack from 'Development' - A Human Rights Response", the following subthemes were discussed: (a) development and its impact on civil and political rights; (b) development and its impact on economic rights; (c) development and its impact on cultural rights; (d) the rights of indigenous peoples; (e) development and its impact on the sovereignty of nation States

27. The participants in the Conference, who were from 12 countries in the region, included members of NGOs, academics, lawyers and activists.

Conference on Regional Systems for the Protection of Human Rights in Asia, in Africa, in the Americas and in Europe

28. This Conference was organized at Strasbourg, France, from 3-8 September 1993. It was sponsored by the Friedrich-Naumann Stiftung (the political Foundation of the Liberal Party (FDP) in Germany) but was organized by its North-South Dialogue office at Brussels in cooperation with its regional office at Singapore (which selected the Asian participants). The Foundation has been promoting the strengthening of the African Commission on Human and Peoples' Rights over the past several years and has now taken the policy decision to shift its focus to the possibility of the creation of a human rights body in Asia.

29. The Foundation invited experts and resource persons on the three existing regional human rights arrangements (and the United Nations) and participants from the ASEAN secretariat and the six ASEAN countries (Brunei Darussalam, Indonesia, Malaysia, Philippines, Singapore and Thailand). It also invited Asian representatives from ASEAN observer countries (Myanmar, Taiwan and Viet Nam). The Asian participants were governmental representatives, parliamentarians and heads of non-governmental human rights organizations.

30. The sponsors emphasized that the Conference was organized to familiarize Asians with developments in the human rights area in other regions and also to familiarize each other with the problems in the different countries in the region. Papers were presented on the general issue of "The universality of

human rights and cultural diversity: the implementation of human rights in different socio-cultural contexts" and then on specific country situations, focusing on the legal system and human rights situation in the countries of the region. Other presentations were devoted to an analysis of the functioning of the existing regional systems (the European, Inter-American and African systems), and to the views of the non-governmental organizations in the region, the ASEAN secretariat, the academic community and an expert on cultural questions from the Council of Europe.

31. The participants (excluding the governmental representatives) formed study groups on three subjects: (a) challenges and issues, (b) national institutions and (c) regional mechanisms. The results of these study groups were discussed during the final session and the Chairman suggested that all proposed amendments should be forwarded in writing to the Friedrich-Naumann Stiftung's representative in Singapore, who would then finalize the document and have it distributed to all the participants.

Annex

STATUS OF RATIFICATIONS BY STATES OF THE ASIAN AND PACIFIC REGION OF THE PRINCIPAL INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

(As at 30 October 1993)

Explanatory note: This annex contains the status of ratifications by States parties of the Asian and Pacific region of the international human rights instruments listed below:

1. International Covenant on Economic, Social and Cultural Rights.

2. International Covenant on Civil and Political Rights.

3. Optional Protocol to the International Covenant on Civil and Political Rights.

4. Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty.

5. International Convention on the Elimination of All Forms of Racial Discrimination.

6. International Convention on the Suppression and Punishment of the Crime of Apartheid.

7. Convention on the Prevention and Punishment of the Crime of Genocide.

8. Convention on the Rights of the Child.

9. Convention on the Elimination of All Forms of Discrimination against Women.

10. Convention on the Political Rights of Women.

11. Convention on the Nationality of Married Women.

12. Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

13. Convention relating to the Status of Refugees.

14. Protocol relating to the Status of Refugees.

15. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

STATES	RATIFICATIONS														
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Afghanistan	x	x			x	x	x			x		x			
Australia	x	x	x	x	x		x	x	x	x	x	x	x	x	
Bahrain					x	x	x	x							
Bangladesh					x	x		x	x						
Bhutan								x	x						
Brunei Darussalam															
Cambodia	x	x			x	x	x	x	x			x	x	x	
China					x	x	x	x	x			x	x	x	
Democratic People's Rep. of Korea	x	x					x	x							
Fiji					x		x	x		x	x		x	x	
India	x	x			x	x	x	x	x	x					
Indonesia								x	x	x					
Iran (Islamic Republic of)	x	x			x	x	x						x	x	
Iraq	x	x			x	x	x		x						
Israel	x	x			x		x	x	x	x	x	x	x	x	
Japan	x	x							x	x			x	x	
Jordan	x	x			x	x	x	x	x	x	x	x	x		
Kiribati															
Kuwait					x	x		x							
Lao People's Democratic Republic					x	x	x	x	x	x					
Lebanon	x	x			x		x	x		x					
Malaysia											x				
Maldives					x	x	x	x	x						
Marshall Islands															
Micronesia, Federated States of								x							
Mongolia	x	x	x		x	x	x	x	x	x					
Myanmar							x	x							
Nauru								x							
Nepal	x	x	x		x	x	x	x	x	x		x			

STATES	RATIFICATIONS														
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
New Zealand	x	xa/	x	x	x		x	x	x	x	x	xb/	x	x	
Oman						x									
Pakistan					x	x	x	x		x					
Papua New Guinea					x		x	x		x			x	x	
Philippines	x	xa/	x		x	x	x	x	x	x		x	x	x	
Qatar					x	x									
Republic of Korea	x	xa/	x		x		x	x	x	x			x	x	
Samoa									x				x		
Saudi Arabia							x								
Singapore											x				
Solomon Islands	x				x					x					
Sri Lanka	x	xa/			x	x	x	x	x		x				
Syrian Arab Republic	x	x			x	x	x	x							
Thailand								x	x	x					
Tonga					x		x								
Tuvalu													x	x	
United Arab Emirates					x	x									
Vanuatu								x							
Viet Nam	x	x			x	x	x	x	x						
Yemen	x	x			x	xc/	x	x	x	x		x	xc/	xc/	
Number of States parties	21	20	6	2	31	23	29	32	23	20	8	10	15	13	0

a/ Declaration recognizing the competence of the Human Rights Committee under article 41 of the International Covenant on Civil and Political Rights.

b/ Declaration recognizing the competence of the Committee against Torture under articles 21 and 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

c/ Ratification, accession, approval, notification of succession acceptance or definitive signature which has been given only by the former Republic of Yemen.